

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,))
vs.) CRIMINAL CASE NO. CCB-17-0106
JEMELL LAMAR RAYAM,)
Defendant.)

Tuesday, October 10, 2017
Courtroom
Baltimore, Maryland

GUILTY PLEA HEARING

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE

For the Plaintiff:

Leo Wise, Esquire

Derek Hines, Esquire

Assistant United States Attorneys

For the Defendant:

Dennis Boyle, Esquire

Also Present:

Nikki Martin, Probation Agent

Reported by:

Nadine M. Gazic, RMR, CRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201
410-962-4753

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1 **THE COURT:** Call the case.

2 **MR. WISE:** Thank you, Your Honor. The case is
3 United States of America versus Jemell Rayam. Criminal Number
4 CCB-17-0106. Leo Wise and Derek Hines for the United States
5 and we're here this afternoon for a re-arraignment.

6 **THE COURT:** All right, thank you. Good afternoon.

7 **MR. BOYLE:** Your Honor, Dennis Boyle on behalf of
8 Jemell Rayam.

9 **THE COURT:** Thank you. If Mr. Rayam is ready to
10 proceed --

11 **THE CLERK:** Please stand. Please raise your right
12 hand.

13 **(Defendant sworn.)**

14 **THE CLERK:** Please state your full name for the
15 record.

16 **THE DEFENDANT:** Jemell Rayam.

17 **THE CLERK:** Thank you. What is your age?

18 **THE DEFENDANT:** 37.

19 **THE CLERK:** What year were you born?

20 **THE DEFENDANT:** 1980.

21 **THE CLERK:** Mr. Rayam, on March 2nd of this year you
22 were arraigned and pled not guilty to Counts 1 and 2 of the
23 indictment. Do you wish to change your plea of not guilty?

24 **THE DEFENDANT:** Yes.

25 **THE CLERK:** How do you wish to plead?

1 **THE DEFENDANT:** I am guilty.

2 **THE CLERK:** As to which count?

3 **THE DEFENDANT:** Count 1.

4 **THE CLERK:** The plea is guilty as to Count 1 and not
5 guilty as to Count 2. Is that correct, Mr. Rayam?

6 **THE DEFENDANT:** Yes.

7 **THE CLERK:** Thank you.

8 **THE COURT:** Thank you. You can be seated.

9 So Mr. Rayam, what I need to do is to ask you a
10 series of questions just to make sure that you know what
11 you're doing. At any point if you don't understand any of my
12 questions or you need a chance to talk to your attorney, just
13 let me know. All right?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** All right, sir. Can you pull the mic a
16 little closer to you, just speak right into it?

17 Do you understand you are under oath so if you
18 knowingly give a false answer to any of my questions, you
19 could be prosecuted for false declaration and/or perjury?

20 **THE DEFENDANT:** Yes, Your Honor.

21 **THE COURT:** All right, sir. How far did you go in
22 school?

23 **THE DEFENDANT:** College degree.

24 **THE COURT:** I take it you had no difficulty reading
25 and understanding the charge against you in the plea letter in

1 this case?

2 **THE DEFENDANT:** No, Your Honor.

3 **THE COURT:** Okay. In the past 24 hours have you
4 taken any drugs or alcohol or medication of any kind?

5 **THE DEFENDANT:** No, Your Honor.

6 **THE COURT:** Any recent treatment for substance abuse
7 or mental health problems?

8 **THE DEFENDANT:** No, Your Honor.

9 **THE COURT:** Are you having any difficulty
10 understanding what's going on here today?

11 **THE DEFENDANT:** No, Your Honor.

12 **THE COURT:** Okay. The charge you're pleading guilty
13 to, Count 1 of the indictment is a charge of racketeering
14 conspiracy. Do you understand there's several things the
15 Government would have to prove beyond a reasonable doubt if
16 the case went to trial? They'd have to prove that there was
17 an enterprise that existed that is charged in the indictment
18 and during approximately the dates charged in the indictment
19 and at least partly here in the District of Maryland. They'd
20 have to prove that this enterprise affected interstate or
21 foreign commerce. They'd have to prove that you were
22 associated with or employed by that enterprise. But most
23 importantly, they would have to prove that you knowingly and
24 willfully and voluntarily, you became a member of that
25 conspiracy, you knew what it was about, you knew the purposes

1 and you intended to help it succeed.

2 Do you understand that's what the Government would
3 have to prove if the case went to trial?

4 **THE DEFENDANT:** Yes, Your Honor.

5 **THE COURT:** All right. In terms of the possible
6 penalty, sir, do you understand that the maximum sentence
7 under the law for this offense is 20 years in prison, 3 years
8 of supervised release, a fine which could be not more than
9 twice of the gross proceeds that were derived from the
10 offense. There is a required, in addition, a special
11 assessment of \$100. You might be ordered to make restitution
12 if that was applicable.

13 Do you understand those penalties?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** I mentioned supervised release. That's
16 a term of years that's imposed to follow whatever prison term
17 you might get. While you're on supervised release, you have
18 to obey the rules and regulations of supervised release, not
19 commit any new offense. If you violate any condition of
20 supervised release, you can get put back in prison for the
21 full term of the supervised release, without getting any
22 credit for the time you were out, even if that somehow meant
23 you spent more time in prison than what is otherwise the
24 maximum. That's how supervised release works. If you violate
25 it, you could go back to jail for the full term.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** Do you understand that you're subject to
4 what are called the sentencing guidelines that have been
5 issued by the United States Sentencing Commission? They are
6 advisory, but I have to calculate them and take them into
7 account deciding on a reasonable sentence in your case. And
8 the advisory guideline range depends on a variety of things:
9 The type of the offense; your role in the offense; the amount
10 of loss involved, if any, just various kinds of things like
11 that go into deciding what the advisory guideline range is
12 going to be.

13 Do you understand that?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** All right. Do you understand that under
16 the law -- and this may be changed somewhat by your plea
17 agreement -- but under the law, if you think I make a mistake
18 deciding on the sentence, you have the right to appeal. Same
19 is true for the Government. Ordinarily under the law if the
20 Government thinks I made a mistake deciding on the sentence,
21 then Government has a right to appeal.

22 Do you understand that?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** Okay. When you plead guilty, you are
25 giving up some very important rights. I'm sure you understand

1 that. I'm sure you've reviewed it with your counsel, but I
2 need to go through some of those with you just to make sure
3 you're giving them up voluntarily.

4 So, you understand you have a right to continue to
5 plead not guilty to this charge?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** Do you understand that you have a right
8 to a trial by a jury?

9 **THE DEFENDANT:** Yes, Your Honor.

10 **THE COURT:** Do you understand if you were willing to
11 give up your right to a trial by a jury and if the Government
12 was also willing to give up its right to a trial by a jury,
13 you could be tried just by a United States District Judge.
14 You could have a judge trial without a jury. Do you
15 understand that?

16 **THE DEFENDANT:** Yes, Your Honor.

17 **THE COURT:** Do you understand that if you did want
18 to go to trial, you would continue to have the right to be
19 represented by counsel just as you are now. He would stick
20 with you and at any point if you cannot afford an attorney,
21 one is appointed to represent you at the Government's expense.
22 Do you understand that?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** Do you understand that if you went to
25 trial, you would be presumed innocent, the burden would be on

1 the Government to prove your guilt beyond a reasonable doubt?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** And do you understand that if you went
4 to trial, you or your attorney would have the right to
5 cross-examine. In other words, he could ask questions of any
6 witness who testified against you and if you went to trial,
7 you could have a summons or subpoena issued to bring people in
8 and testify for you. If you had some helpful evidence,
9 testimony, exhibits, whatever it might be, you could have a
10 summons issued to make those people come in and testify on
11 your behalf.

12 Do you understand that?

13 **THE DEFENDANT:** Yes, Your Honor.

14 **THE COURT:** Do you understand that if you did go to
15 trial, you personally would have the right to take the witness
16 stand and testify if you wanted to, but if you did not want to
17 testify for whatever reason, no one could force you or make
18 you testify?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** Do you also understand if you decided
21 not to testify for whatever reason, no one, including the jury
22 could hold that against you in any way. They could not decide
23 anything bad about your case or specifically if you were
24 guilty just because you decided not to testify.

25 Do you understand that?

1 **THE DEFENDANT:** Yes, Your Honor.

2 **THE COURT:** Do you understand if you did choose to
3 be tried by a jury, in order for you to be convicted, the
4 jury's verdict would have to be unanimous. There would be 12
5 jurors and you'd all have to agree that you had been proven
6 guilty beyond a reasonable doubt.

7 Do you understand that?

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** Do you understand that when you plead
10 guilty, you are giving up each and every one of those rights.
11 There will be no further trial of any kind and you will be
12 sentenced based on your guilty plea?

13 **THE DEFENDANT:** Yes, Your Honor.

14 **THE COURT:** And finally, do you understand that when
15 you plead guilty, you are giving up your right to try to
16 suppress any statements that you might have made, keep
17 something out of evidence that might have been taken from you,
18 pretrial motions? In other words, any defense that you might
19 have to this charge, you give it up when you plead guilty.

20 Do you understand that?

21 **THE DEFENDANT:** Yes, Your Honor.

22 **THE COURT:** Okay. All right, I have a plea
23 agreement letter here dated June 28th of 2017 and it is
24 addressed to Mr. Boyle. It appears to have your signature at
25 the end. Did you, in fact, read and sign this letter, Mr.

1 Rayam?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** All right. Directly above your
4 signature at the "and" it says, *I have read this agreement,*
5 *including the sealed supplement and carefully reviewed every*
6 *part of it with my attorney. I understand it and I*
7 *voluntarily agree to it. Specifically, I have reviewed the*
8 *factual and advisory guidelines stipulation with my attorney*
9 *and I do not wish to change any part of it. I am completely*
10 *satisfied with the representation of my attorney.*

11 Is that all correct Mr. Rayam?

12 **THE DEFENDANT:** Yes, Your Honor.

13 **THE COURT:** All right. And specifically regarding
14 your representation that Mr. Boyle has been providing to you,
15 is there anything that you think he should have done that he
16 hasn't done, or anything else that you need to ask him about
17 right now?

18 **THE DEFENDANT:** No, Your Honor.

19 **THE COURT:** All right. Well, let me go back to the
20 beginning of the letter. Now, do you have a copy of it there
21 that you can look at?

22 **THE DEFENDANT:** Yes, Your Honor.

23 **THE COURT:** Okay. I want to just summarize it with
24 you. First let me ask whether anyone has used any force or
25 made any threats against you or against anyone else to get you

1 to enter into this plea?

2 **THE DEFENDANT:** No, Your Honor.

3 **THE COURT:** Okay. So the letter says you're
4 pleading guilty, again, to Count 1 of the indictment in this
5 case, 17-106. It's a charge of racketeering conspiracy.

6 Paragraph 2 tells you what the Government would have
7 to prove, the elements of the case which we talked about.

8 And paragraph 3 tells you about the penalties.

9 Paragraph 4 tells you about the rights you're giving
10 up by pleading guilty, which may include certain valuable
11 civil rights. And if you were not a U.S. citizen you might be
12 subject to deportation or other loss of immigration status.

13 Paragraph 5 says you understand that I have to
14 determine an advisory guideline range and take it into account
15 in connection with sentencing.

16 Paragraph 6 refers to a statement of facts. So let
17 me just ask you to look at Attachment A which is a statement
18 of facts. It is quite lengthy, so I am not going to read
19 through it, but let me ask you, sir, just to clarify. You
20 have, in fact, read this entire statement of facts; is that
21 correct?

22 **THE DEFENDANT:** Yes, Your Honor.

23 **THE COURT:** And it says you agree with the
24 Government that if the case went to trial, the Government
25 could prove all of these facts and could prove your guilt on

1 the charge of racketeering conspiracy. And there is a lengthy
2 statement about your involvement with the Baltimore Police
3 Department and with various illegitimate purposes; enriching
4 yourself through illegal conduct including extortion, robbery
5 and time and attendance fraud.

6 So my question for you, Mr. Rayam, is just whether
7 you agree that the statement of facts is correct and you did
8 what it says in there you did.

9 **THE DEFENDANT:** Yes, Your Honor.

10 **THE COURT:** You do agree you're guilty of this
11 offense?

12 **THE DEFENDANT:** I am guilty, Your Honor.

13 **THE COURT:** All right. Thank you, sir.

14 Going back to the letter in paragraph 6 based on the
15 facts you have admitted, you have some agreement with the
16 Government about the guidelines. First of all, that the
17 guideline for robbery should be used as a starting point. So
18 there's a base offense level of 20. There was a firearm, one
19 or more firearms possessed, so that's an increase of 5.
20 There's a use of physical restraint to facilitate the
21 commission of the offense, so that's an increase of 2. And
22 the loss was greater than \$20,000, so that's an increase of 1.

23 Based on your role in the offense, you've also
24 agreed to an increase of 2 for abuse of position of trust and
25 another increase of 2 for obstructing or impeding the

1 administration of justice.

2 So, that is a total of 32 for an offense level to
3 start with.

4 The U.S. Attorney is not going to oppose a 2-level
5 downward adjustment for your timely acceptance of
6 responsibility and, in fact, will make a motion for the third
7 level down for your acceptance of responsibility, assuming, of
8 course, that there's no violation of the plea agreement
9 between now and sentencing, in which case the Government is
10 not obligated to make those motions.

11 Now, it says there's no agreement about your
12 criminal history. That can affect the guidelines, of course.
13 It says you don't have any disputes with the Government about
14 the guidelines and both you and the Government can argue for
15 any reasonable sentence. The advisory guideline range is just
16 one factor. Both you and the Government have the right to
17 argue for what you think is reasonable based on the factors
18 under the law.

19 And paragraph 13 says the U.S. Attorney is going to
20 recommend a sentence sufficient, but not greater than
21 necessary to comply with the purpose of the law. You and the
22 Government can both give me any information that would be
23 helpful for me to make that decision.

24 Now, the next paragraph deals with restitution and
25 it says you're agreeing to the entry of a restitution order

1 for the full amount of the victims' losses. Counsel, is there
2 an agreement as to that amount at this point or will that be
3 something that we will determine in connection with
4 sentencing?

5 **MR. WISE:** That will be determined in connection
6 with sentencing, Your Honor.

7 **MR. BOYLE:** I'd agree, Your Honor.

8 **THE COURT:** All right. Also connected to that, the
9 next few paragraphs simply indicate that you would cooperate
10 with the U.S. Attorneys Office regarding the collection of
11 whatever the financial obligation is going to be in terms of
12 restitution, fines, special assessment.

13 Paragraph 19 deals with appeal rights. And first of
14 all it says you're giving up your right to appeal your
15 conviction. In other words, your guilty plea today is your
16 conviction of this racketeering conspiracy charge and you're
17 giving up your right to appeal that. And both you and the
18 Government are giving up that right that I previously
19 mentioned to appeal the sentence. Now, you could still use
20 what's called Rule 35, if necessary, to correct some technical
21 error in the judgment and then it says you're giving up your
22 rights under the Freedom of Information Act. That just means
23 that you won't be asking for more documents about the case.

24 Paragraph 20 tells you if you violate the plea
25 agreement in some way between now and sentencing, if you

1 committed some new offense or failed to accept personal
2 responsibility, something of that nature, if the Government
3 proved that to me, then in that case they would be free of
4 their obligations to you under this agreement. They could
5 argue for different guideline factors, for example, and you
6 would not necessarily be allowed to withdraw your guilty plea.
7 That's if you violate the plea agreement.

8 And then paragraph 21 tells you that the Court is
9 not a party to the agreement. I didn't sign the letter. I do
10 have an independent responsibility with the help of the
11 presentence report to decide what the facts are that are
12 relevant to sentencing, what the guideline range is,
13 ultimately what a reasonable sentence is. I don't have to
14 accept the US Attorney's recommendation. I don't have to
15 accept your counsel's recommendation. I can impose any lawful
16 sentence. And you understand if I don't accept counsel's
17 recommendation, that does not mean that you would be allowed
18 to withdraw your guilty plea. So you have to understand at
19 this point nobody can make you an absolutely binding promise
20 of what the sentence is going to be.

21 And then it says that that's the complete plea
22 agreement in this case, together with the sealed supplement.

23 Now, we have a policy in this district of having a
24 sealed supplement in every case discussing cooperation,
25 whether or not a defendant is cooperating. So what I'm about

1 to say will remain under seal if the transcript of the
2 proceeding is ordered and I'll ask counsel to approach the
3 bench.

4 (It is the policy of this Court that every guilty
5 plea and sentencing proceeding include a bench
6 conference concerning whether the defendant is
7 or is not cooperating.)

8 THE COURT: Okay. So that is a summary of the plea
9 agreement. Anything from Government counsel? Anything that
10 needs to be added, modified, commented on, anything I missed?

11 MR. WISE: No, Your Honor.

12 THE COURT: Okay. Mr. Boyle, anything else?

13 MR. BOYLE: No, Your Honor.

14 THE COURT: All right, Mr. Rayam, most important, I
15 didn't read this word for word, but as far as you're concerned
16 was that a correct summary of what you think your agreement
17 with the Government is?

18 THE DEFENDANT: Yes, Your Honor. Everything was
19 correct.

20 THE COURT: Okay, great. Let me just ask it another
21 way, is there anything else that's been promised to you, any
22 reward, any benefit, anything you expect to get in exchange
23 for your guilty plea, besides what's in the letter?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Any questions at all, sir, for me or for

1 your lawyer about your guilty plea or the terms of your plea
2 agreement?

3 **THE DEFENDANT:** No, Your Honor.

4 **THE COURT:** All right then, sir, based on the
5 answers you've given me and were given on the record, I'm
6 going to find that you're competent to enter this guilty plea.
7 I believe you understand the charge against you, charges, and
8 the penalties you're subject to. I find that you understand
9 the rights you're giving up by pleading guilty, that you're
10 doing this voluntarily and there is a factual basis for your
11 entry of the plea. So I'm accepting your plea of guilty to
12 this charge, Count 1 of the indictment, the racketeering
13 conspiracy.

14 And because my computer is malfunctioning and just
15 to take a little more time, in any event, if counsel would
16 contact my chambers to set a sentencing date. I'm not going
17 to try to do that right now.

18 So, anything else?

19 **MR. WISE:** Not from the United States, Your Honor,
20 thank you.

21 **MR. BOYLE:** Nor from the defense.

22 **THE COURT:** All right, thank you all very much.

23 **THE CLERK:** All rise. This Honorable Court now
24 stands adjourned.

25 **(Proceeding concluded.)**

1 CERTIFICATE OF OFFICIAL REPORTER

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4
5 I, Nadine M. Gazic, Registered Merit Reporter and
6 Certified Realtime Reporter, in and for the United States
7 District Court for the District of Maryland, do hereby
8 certify, pursuant to 28 U.S.C. § 753, that the foregoing is a
9 true and correct transcript of the stenographically-reported
10 proceedings held in the above-entitled matter and that the
11 transcript page format is in conformance with the regulations
12 of the Judicial Conference of the United States.

13
14 Dated this 25th day of January, 2018.

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16 Nadine M. Gazic, RMR, CRR

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